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**Comments in response to 69 Federal Register 2970 Vol. 69, No. 13
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Submitted Electronically to: <http://dms.dot.gov>**

**Docket Management System
U.S. Department of Transportation
400 Seventh Street, SW
Room Plaza Level 401
Washington, DC 20590-0001**

Docket No. FAA-2003-16685

Dear Sir or Madam:

Please accept these comments on behalf of International Aero Engines AG in response to the Federal Register Notice of Proposed Rulemaking published at 69 Federal Register 2970 (January 21, 2004) (Establishment of Organization Designation Authorization Procedures) [hereinafter "ODA NPRM"].

International Aero Engines AG welcomes the ODA NPRM and believes that with the incorporation of the comments outlined below, the ODA rule will represent an important enhancement to the systems already in place between the FAA and industry. When successfully incorporated and applied, International Aero Engines AG is confident that it will result in increased efficiency and more effective resource utilization for both the FAA and the aerospace industry as a whole.

International Aero Engines AG respectfully offers the following comments to the NPRM that we believe must be addressed to ensure successful incorporation and application of the final ODA rule.

Summary of Major Concerns

ITEM 1 - Today, there are approximately 86 FAA production approval holders appointed as FAA Organizational Designated Airworthiness Representatives (ODARs), the majority of which have been delegated conformity inspection and airworthiness approval authorizations as specified in function codes 8, 19, 20, 21, and 22 in FAA Order 8100.8B Appendix 1. The proposed rule and accompanying draft Order, as written, make no provision for a direct transition of the current manufacturing ODAR to an ODA. Instead, a manufacturer with a current ODAR will have to get an ODA for that type of manufacturer (i.e., PC ODA, PMA ODA, TSO ODA), with requirements and privileges (which they may not want) over and above that of the current ODAR. This problem is magnified for manufacturers who hold more than one type of production approval, since they would have to write an ODA procedures manual that meets the requirements of the combination of production approvals held. In addition, those production approval holders who obtain their production approval by licensing agreement may not obtain or use an ODA on those products, forcing that manufacturer to request FAA appointment of Designated Manufacturing Inspection Representatives (DMIRs) for those products. Also, if a company has both ODA and DMIRs, the DMIRs may not be used on those products covered under the ODA, in comparison to an ODAR, which can work on the same products as DMIRs. As a result, we feel that industry and the FAA costs will be dramatically increased without any increase in safety.

A solution to this issue is to add a new category of ODA for Conformity Inspections and Airworthiness Approvals (CIAA), which will be a direct replacement for current manufacturing ODARs. This will significantly decrease the FAA and industry cost, time, and resources to convert from a manufacturing ODAR to an ODA. Please refer to Appendix A at the end of this letter for a description of our proposed CIAA ODA type.

ITEM 2 - The successful implementation of this rule is predicated on the fact that the FAA has harmonized it with EASA and TCCA.

ITEM 3 - Investigation of safety concerns on behalf of the FAA should not be the responsibility of the ODA Unit. This is a responsibility of the manufacturer, and is already covered under 14 CFR 21.3. The current wording in the proposed rule will seriously hinder the FAA's ability to conduct investigations.

ITEM 4 – The NPRM and draft Order call out specific record retention requirements that are different from what is typically required. Record retention requirements for ODAs should be the same as those requirements for the FAA personnel and their designees performing similar tasks.

ITEM 5 – The restriction on ODA application outside the United States must be reconsidered. Today, FAA ODARs are allowed to have authorized representatives operate outside the United States. This should be allowed to continue. The loss of this privilege would have a significant impact on all

manufacturers with foreign-based ODARs. If the restriction remains in place, it would effectively be forcing manufacturers to request FAA appointment of Designated Manufacturing Inspection Representatives (DMIRs) to replace foreign-based ODAR's. As a result, we feel that industry and the FAA costs will be dramatically increased without any increase in safety

General Discussion of the Proposed Rule

Under the current construction, the ODA rule requires the ODA Holder to perform self-audits and ensure that no one interferes with individuals performing functions for the FAA. ODA Holders would also be required to cooperate with the FAA in its audit, oversight, and surveillance of their facilities. Although not expressly stated in the NPRM and proposed Order, we express strong concerns if the ODA Holder is required to reveal the results of self/internal audits to the FAA. Our concern is that if the audit reveals deficiencies, the FAA would use this information to take enforcement actions against the ODA Holder and/or the organization. This could defeat the purpose of audits and possibly cause an ODA Holder and/or organization to be less rigorous in its audit for fear of inadequacies that could potentially result in enforcement action.

An additional concern is that audit findings would become available under the Freedom of Information Act (FOIA) if the findings come into possession of the government. This has competitive ramifications for industry. Additionally, the audit findings will become available in civil litigation. Further, should an ODA Holder miss a deficiency, later found during an FAA audit, the FAA could use this failure to find the deficiency against the ODA Holder.

Without some measures to prevent the FAA from taking immediate enforcement action when it finds a deficiency and without some protection from disclosure, the audit requirements could be wholly ineffective. The FAA could address this concern by mandating an audit program in which ODA Holder/Organization is not required to reveal details that might result in enforcement action. For example, an ODA Holder could confirm the existence and status of the audit program in order to confirm it follows its quality assurance program. Another solution might be for the FAA to set criteria for "safety-related" and "non-safety related" audit findings. Safety related deficiencies uncovered during an audit would require immediate corrective action and could be disclosed to the FAA; although, a provision preventing disclosure to third parties would be critical. A safety related deficiency would pose an immediate threat to the flying public and/or operators, requiring an organization to take immediate action.

In summary, if audit findings can systematically result in enforcement actions or third party disclosure, such a system would not improve quality in the industry. Further, such a system may even serve as a disincentive to uncover discrepancies.

The proposal as currently written also states that organizations that currently have individual designees could –

- Continue to use only designees and operate under standard certification procedures;
- Choose to operate under an ODA rather than use individual designees; or
- Operate under both systems (but not on the same project or program), depending on the certification needs of the organization and the regulatory needs of the FAA.

Currently, for an organization that employs both DMIRs and ODAR authorized individuals, both types of designees can operate on the same project or program. It would be an undue burden on manufacturers if we could not use DMIR personnel on programs covered by an ODA, and contrary to current practice. The NPRM also indicates the FAA does not intend to issue authorizations to all qualified organizations that might apply for an ODA. The FAA will issue authorizations only if it has resources to manage the organization and only if the designation will benefit the FAA and the public.

The FAA must, more exactly, state the criteria that will be used to determine whether a qualified organization will be denied an ODA. There are competitive ramifications to the organizations that may be discriminated against by such an FAA denial of ODA and it is possible that the existence of an ODA may cause one organization to be viewed more favorably in the marketplace than one which does not have an ODA. In fact, the denial of an ODA may be viewed as an implicit message that there is a quality issue within an organization. Therefore, in order to have a level playing field for industry, the selection criteria must be provided.

The Proposed Rule- Section-by-Section

Part 21, Subparts J and M; SFAR 36- The NPRM indicates that existing DASs, DOAs, SFAR 36s, and ODARs must convert to an ODA system within 3 years after the date the final rule is published to maintain their delegated authority. We recommend that the FAA consider grand fathering existing ODARs into an ODA for Airworthiness and Conformity. (Refer to Appendix A for a full description of the recommended requirements and functions of this ODA type). The majority of today's ODARs are already delegated by the Administrator to perform conformity inspections and issue original and recurrent airworthiness certificates and airworthiness approvals. If this is not possible, then we recommend a three-year transition period from the time the FAA system is in place to approve ODAs and not from the date when the final rule is published. This should also be predicated on the fact that this rule is harmonized with EASA.

Section 183.15(a) and (b) – “Unless sooner terminated under paragraph (c)...” Does this apply to individuals appointed under the ODA? Clarification is requested.

Section 183.41(b)(1) – The FAA proposes that an ODA Unit consist of two or more individuals. Under the current ODAR structure only one Focal Point is required. Should the FAA consider the CIAA proposal in Appendix A and grandfather existing ODAR functions, then a single Focal Point should be allowed to continue under this limited function.

Section 183.47 – The FAA proposes that only applicants within the United States would be eligible for an ODA. We recommend that as long as the FAA finds no undue burden, applicants should be able to function outside the United States. It should also be made clear that an ODA Holder within the United States can have authorized individuals located or performing ODA functions outside the U.S. Currently this section does not recognize the fact that the FAA grants exemptions to 14 CFR 21.325

Section 183.47(b)(1) – To be eligible for an ODA, the applicant must “have been issued and hold a current type certificate, supplemental type certificate (STC)...” production certificate and technical standards order authorization (TSOA) approvals should also be added to this list.

Section 183.47(c) – Applies to any applicant seeking a designation for a production system. Applicants in this category would have to demonstrate experience in both design approval and production approval. This is a requirement that appears to have no basis for the qualification of the duties that may be delegated to the ODA personnel. An ODA for production will be allowed to issue airworthiness approvals and airworthiness certificates - delegated from FAA manufacturing inspection. It is unnecessary and will create an undue burden to require such an applicant to have, in addition to experience in production approval, to also have experience in design approval.

Currently, ODAR systems are working effectively at PC, PMA and TSOA holders without a restriction on how those production approval holders obtained their design data. By adding the proposed restrictions that a PC holder must hold a TC or STC, and a PMA holder cannot obtain design data by licensing agreement, current ODARs’ approvals will not be able to be converted to ODAs. This will force production approval holders to replace their ODAR system with DMIRs, significantly increasing costs at the production approval holder and the FAA with no resultant increase in safety.

We recommend the wording of this section to be: *“An applicant seeking functions in the area of production (i.e., PC ODA, PMA ODA, TSOA ODA) must have, for the product, components, parts, or appliances for which the applicant is*

seeking designation authorization, a current Production Certificate, TSOA, or PMA issued under Part 21 of this chapter.”

Section 183.47(d) – For the purposes of this section, standard procedures would not include transfers and licenses issued under Part 21 and approvals based on identity covered under 21.303(c)(4). This requirement will result in increased cost and burden on manufacturers and the FAA by imposing additional requirements that are not currently in place for ODAR systems. There is currently no requirement of this nature for obtaining an ODA. Imposition of this requirement will not allow some manufacturers with ODARs to obtain ODA for their product, thereby increasing the required number of individual manufacturing designees (DMIRs) at those manufacturers, and resultant increase in FAA oversight. Also note that many component manufacturers, who design their own components, obtain PMA design approval by identity through licensing agreement with the Type Certificate holder who certified the component on its product.

Section 183.49(c)(6) – Approving or accepting manuals and changes/supplements to manuals. Clarification is required. Currently, only technical data is approved.

Section 183.49(c)(15) – Performing any other functions deemed appropriate by the Administrator. It would be appropriate and strongly recommended that all major changes to the ODA program and/or the authorized functions within the program be published through the Federal Register for public comment.

Section 183.51(b) – NPRM wording states that each ODA Holder must have within the ODA Unit “A staff consisting of engineering, flight test... that have the experience and expertise in **aircraft certification** to find compliance, determine conformity and airworthiness, issue certificates **or approvals**,” Experience for determining conformity and issuing airworthiness approvals should be in inspection, not aircraft certification. Also, the list of approvals should include the issuance of airworthiness approvals.

Section 183.51(n) – The NPRM requires that the procedures manual contain procedures for performing continued airworthiness functions, including coordinating and assisting the FAA in investigation and resolution of service difficulties. This is only appropriate for ODAs with engineering functions and should be worded as such.

Section 183.53 – Current wording in the NPRM states, “Changes to the procedures manual may not be implemented until approved by the FAA.” There may be times when the FAA would authorize implementation of minor changes to the procedure manual prior to FAA approval. It will be more advantageous to the FAA to reword this requirement as follows: *“Changes may be implemented prior to FAA approval in accordance with the change procedure in the manual.”*

Section 183.51 (a thru o) – This section goes into great detail regarding the contents of the ODA procedures manual. This information is normally contained within applicable Orders and Advisory circulars. The placement of specific details of the manual within this section establishes the minimal requirements by law and may discourage applicants from exceeding the minimal requirements in favor of best industry practices.

Section 183.55(b) – An ODA Unit may not perform an authorized function if there has been a change within the ODA Unit or ODA Holder that may affect the Unit's qualifications.... (including but **not limited to changes** in location of facilities, ... We propose changing the wording to specify "*significant changes*" since minor changes in these parameters may not affect the Unit's qualification or ability to perform the ODA functions.

Section 183.55(d) –According to this section of the NPRM, the FAA expects that, **in the future**, qualified ODA Holders will be allowed to make ODA Unit staff changes without FAA involvement, but the FAA would still require notice of staff changes. This is currently allowed under the ODAR system and should be retained, at a minimum, for manufacturing ODAs.

Section 183.63(b)(3) –The proposed rule, as written states "The data required to be submitted to support the issuance of supplemental type certificates, airworthiness certificates, export approvals, production limitation record, or any other approval authorized under this subpart" must be maintained for the life of the ODA. We propose removing reference to "airworthiness certificates, export approvals, production limitation record, or any other approval authorized under this subpart" since the production limitation record requirements are covered under the amendment to the production certificate in item 183.63(b)(2). The airworthiness certificate and airworthiness approval data requirements should be consistent with the requirements for retention of this data by other designees, and not required for the life of the ODA. Similarly, 183.63(b)(6) should be deleted for the same reasons as stated.

Section 183.63(b)(4) – The NPRM states that each ODA holder must maintain "a list of the products, components, parts, or appliances for which an ODA Unit performs an authorized function." The wording should indicate the authorized functions as "*authorized engineering functions.*" For manufacturing functions (i.e., issuance of airworthiness approvals and conformity inspections) the record retention requirements should be the same as for other designees (e.g., two years).

Section 183.63(b)(9) – The record retention period for self-audits and corrective action records should be a two-year requirement, not a requirement for the life of the ODA.

Section 183.63(c)(1) – The proposed rule states “A complete inspection record, by serial number, for each product manufactured and data covering the processes and tests to which the product’s materials and parts are subjected;” must be maintained for two years. These are not requirements for an FAA inspector or designee, and should not be a requirement for a production approval holder only because it holds an ODA. Inspection data requirements for production approval holders are specified in Part 21.

Section 183.63(c) – The NPRM should make a provision in the Records and Reports section requiring each ODA Holder to maintain conformity inspection and airworthiness approval records for 2 years.

Section 183.65 – The proposed rule would require an ODA Unit to investigate safety concerns it or the FAA identifies. This is not a responsibility of current ODAR holders, and should not be imposed on ODA holders that only have manufacturing inspection responsibilities. An ODA Unit may not have personnel with the expertise to conduct these investigations. If imposed, this requirement should be on the ODA Holder. Furthermore, this responsibility is already covered under 14 CFR 21.3. Current wording in the proposed rule will limit the FAA’s ability to conduct investigations.

Economic Impact

The FAA’s cost analysis as outlined in Table 1 and Table 2 of the NPRM does not adequately reflect the costs we predict will be incurred initially and on a recurrent basis for a large ODAR. Our cost analysis compares the cost of transitioning from a large ODAR to a PC/TC/STC/PMA ODA and the cost of transitioning to a Conformity Inspection/Airworthiness Approval ODA as proposed and described in **Appendix A**. As indicated in **Appendix B**, our cost estimate is a factor of 7 greater than the FAA’s estimate. However, the cost of transitioning to a Conformity Inspection/Airworthiness Approval ODA is more in line with current expenditures to maintain the existing ODAR and is the route we recommend.

Appendix A

Proposed ODA Type For Consideration in 14 CFR 183 Subpart D NPRM and Addition to Draft Order 8100.ODA

Chapter 15. Conformity Inspection and Airworthiness Approval (CIAA) Functions

15-1. GENERAL.

a. This chapter establishes the requirements and functions for designating an organization to act as a Representative of the Administrator within the scope of performing conformity inspections and issuing original and recurrent airworthiness certificates and airworthiness approvals.

b. The nature of the CIAA ODA involves both AIR and AFS functions. As such, the functional administration of an CIAA ODA requires both organizations working simultaneously or in coordination with one another.

15-2. ELIGIBILITY. Certificate holders per paragraph 15-3 and consultant groups are eligible for a CIAA ODA if they meet the qualification criteria in paragraph 3-4 and have:

- a. Sufficient experience in conformity inspection and airworthiness approval functions sought and in the administrative processing of conformity inspection and airworthiness approval related forms and documentation.
- b. Previously performed such activities.
- c. Adequate resources and personnel appropriate to the CIAA functions sought.

15-3. Certificate Holders Eligible for CIAA ODA include:

- a. Part 21 Production Approval Holders (PC, PMA, TSOA)
- b. Part 119 Air Carriers or Commercial Operators.
- c. Part 145 Repair Stations.

15-4. FUNCTIONS. The FAA may authorize, consistent with the CIAA ODA's qualifications and experience, functions necessary to perform conformity inspections and issue original and recurrent airworthiness approvals and certificates. The authorization may be limited for a particular product or article.

The FAA will impose any limitations necessary, taking into account the staffing of the CIAA ODA unit. The available CIAA ODA functions are:

- a. **Issue Airworthiness Certificates and Approvals (function code 15060).**
Organizations with the CIAA functions may issue any of the following for any products or parts, for which they have the pertinent technical data in accordance with Part 21, Order 8130.2, Order 8130.21, and this order.
 - (1) **(Code 15061)** - Original standard airworthiness certificates, FAA Form 8100-2, for U.S.-registered aircraft.
 - (2) **(Code 15062)**- Recurrent airworthiness certificates, FAA Form 8100-2, for U.S.-registered aircraft, import, or other aircraft.
 - (3) **(Code 15063)**- Special airworthiness certificates (Form 8130-7) in the experimental category for the purpose of performing research and development, showing compliance with FAA regulations, conducting crew training, exhibition, and conducting market surveys.
 - (4) **(Code 15064)**- Airworthiness approvals (FAA Form 8130-3), including supplemental airworthiness approvals, for new or newly overhauled class I, II and III products, in accordance with the provisions of Order 8130.21.
 - (5) **(Code 15065)**- Original and recurrent export airworthiness approvals (FAA Form 8130-3) for new or newly overhauled class II and III products.
 - (6) **(Code 15066)**- Original and recurrent export airworthiness certificates (FAA Form 8130-4) for class I products.
- b. **Determine Conformity of Parts, Test Articles (function code 15080).**
CIAA ODA units may determine conformity (FAA Form 8100-1 and FAA Form 8130-3) of engines, propellers, products, components, parts, appliances, or test articles thereof.
- c. **Determine Conformity of Test Setup (function code 15090).** PC ODA units may determine conformity (FAA Form 8100-1 and or FAA Form 8130-3) of test setups per approved test plans. The AR must verify test parts used in the test have been FAA conformed.
- d. **Determine Conformity for Installation and TIA Inspections on Aircraft (function code 15100).** PC ODA units may determine installation conformity (FAA Form 8100-1) for products, components, parts, or appliances and perform TIA inspections. In addition, the ODA unit must document all TIA inspections on a Type Inspection Report or Supplemental Type Inspection Report (Part I).

- e. **Determine Conformity of Software (function code 15110).** PC ODA units may determine software conformity (FAA Form 8100-1, conformity inspection record) for airborne and non-airborne systems.

15-5. LIMITATIONS.

FUNCTIONS THAT ARE NOT DELEGATED. An ODA holder may only be authorized to perform the functions allowed by this order. The FAA does not delegate all functions it's responsible for

15-6. RECORDS. In addition to the requirements of paragraph 3-16, the ODA unit must maintain conformity inspection and airworthiness approval records at its facility for duration required by applicable FAA directives.

Appendix B

IAE Cost Comparison to ODA NPRM Cost Estimates

Table 1- Initial Number of Administrative Hours

Type of Initial Activity	FAA Estimate for a large ODAR (ManHours)	Total Hourly Compensation @ \$110/hr	Manufacturing		Conformity Inspection / Airworthiness Approval ODA	
			IAE Estimate (ManHours)	IAE Total Hourly Compensation @ \$110/hr	Manufacturing IAE Estimate (ManHours)	IAE Total Hourly Compensation @ \$110/hr
Revise Procedure Manual	16	\$1,760.00	40	\$4,400.00	16	\$1,760.00
Revise Record Keeping System	4	\$440.00	16	\$1,760.00	8	\$880.00
Initial Employee Instruction	20	\$2,200.00	120	\$13,200.00	8	\$880.00
FAA Application	14	\$1,540.00	40	\$4,400.00	14	\$1,540.00
ODA Administrator Travel	8	\$1,380.00	99.5	\$30,645.00	20	\$2,200.00
Total	62	\$7,320.00	315.5	\$54,405.00	66	\$7,260.00
Present Value		\$6,780.00				

Table 2- Annual (Recurrent) Number of Administrative Hours

Type of Initial Activity	FAA Estimate for a large ODAR (ManHours)	Total Hourly Compensation @ \$110/hr			(Estimated based on proposed Order 8100.ODA Para 3-3 Yearly Oversight)		(Estimated based on Current ODAR requirement for Oversight/Audit every two years)	
Refresher Training	20	\$2,200.00	120	\$13,200.00	120	\$13,200.00	60	\$6,600.00
Additional ODA Administrator Time	12	\$1,320.00	60	\$6,600.00	20	\$2,200.00	20	\$2,200.00
Periodic Self-Audits	16	\$1,760.00	88	\$9,680.00	88	\$9,680.00	44	\$4,840.00
FAA Review	8	\$880.00	8	\$880.00	8	\$880.00	8	\$880.00
Travel	4	\$690.00	99.5	\$30,645.00	100	\$30,700.00	50	\$15,350.00
Total	60	\$6,850.00	375.5	\$61,005.00	336	\$56,660.00	182	\$29,870.00
Present Value		\$4,835.00						